

## Message Text

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ACTION EA-10

INFO OCT-01 ISO-00 JUSE-00 H-01 L-03 INR-07 /022 W

-----109770 200838Z /10

R 190938Z AUG 77

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC 5867

C O N F I D E N T I A L SEOUL 7002

E.O. 11652: GDS

TAGS: PDIP, US, KS

SUBJECT: KOREAN BANK RECORDS

1. MOFA AMERICAN BUREAU DIRECTOR PAK SSANG-YONG, TOOK OPPORTUNITY OF POLCOUNS PRESENCE AT MOFA TO PRESENT FOLLOWING AIDE MEMOIRE ON KOREAN EMBASSY BANK RECORDS IN WASHINGTON. IN DOING SO HE NOTED CONTINUING ROK WILLINGNESS TO COOPERATE ON THIS ISSUE. POLCOUNS AGAIN STRESSED U.S. VIEW THAT BANK RECORDS ARE PROPERTY OF BANK AND SUBJECT TO SUBPOENA. HE ALSO QUESTIONED VALIDITY OF PARA 4 OF AIDE MEMOIRE SINCE INFORMATION ON THIS SUBJECT AVAILABLE FROM MANY OTHER SOURCES. PAK TOOK U.S. POINT BU SAID HE STILL WISHED TO PRESENT AIDE MEMOIRE TOAGAIN CLARIFY ROK VIEW.

2. BEGIN TEXT:

1. THE MINISTRY OF FOREIGN AFFAIRS WISHES TO DRAW THE ATTENTION OF THE EMBASSY OF THE UNITED STATES TO THE REPEATED ISSUANCE BY THE AUTHORITIES OF THE UNITED STATES OF SUBPOENAS WITH RESPECT TO RECORDS OF BANK ACCOUNTS OF THE DIPLOMATIC MISSIONS OF THE REPUBLIC OF KOREA AND THEIR OFFICIALS IN THE UNITED STATES. IT IS RECALLED THAT THE GOVERNMENT OF THE REPUBLIC OF KOREA HAS EXPRESSED ITS VIEWS ON A NUMBER OF OCCASIONS SINCE SEPTEMBER 1976 IN THIS REGARD.

2. AS CLEARLY EXPLAINED IN THE NOTE VERBALE OF OCTOBER 5, 1976,  
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ACCOMPANIED BY "MEMORANDUM CONCERNING QUESTION OF IMMUNITY OF RECORDS OF THE EMBASSY OF THE REPUBLIC OF KOREA AND ONE OF ITS OFFICIALS" WHICH WAS ADDRESSED BY THE KOREAN EMBASSY IN WASHINGTON, D.C. TO THE DEPARTMENT OF STATE, THE GOVERNMENT OF THE REPUBLIC OF KOREA HOLDS THE VIEW THAT THE RECORDS OF THE BANK ACCOUNTS OF A DIPLOMATIC MISSION AND ITS DIPLOMATIC OFFICIALS ARE INVOLABLE UNDER GNERAL PRINCIPLES OF INTER-

NATIONAL LAW AND PARTICULARLY UNDER THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF WHICH BOTH THE REPUBLIC OF KOREA AND THE UNITED STATES ARE PARTIES, AND, HENCE, ARE NOT SUBJECT TO SUBPONEA BY THE AUTHORITIES OF THE HOST GOVERNMENT.

3. AS STIPULATED IN THE PREAMBLE OF THE VIENNA CONVENTION, THE PURPOSE OF THE DIPLOMATIC PRIVILEGES AND IMMUNITIES ISSUED TO ENSURE DIPLOMATIC MISSIONS REPRESENTING SOVEREIGN STATES THE EFFICIENT PERFORMANCE OF THEIR FUNCTIONS WITHOUT SEARCH OR SEIZURE OR ANY OTHER KIND OF INTERFERENCE BY THE AUTHORITIES OF THE HOST GOVERNMENT. IN VIEW OF THE FACT THAT NOWADAYS SUCH DIPLOMATIC FUNCTIONS AND ACTIVITIES ARE UNAVOIDABLY REFLECTED IN THE RECORDS OF BANKS WITH WHICH DIPLOMATIC MISSIONS AND THEIR OFFICIALS DEAL, IT IS SELF-EVIDENT THAT THESE BANK RECORDS, REGARDLESS OF THEIR LOCATION, SHOULD BE IMMUNE FROM INTERFERENCE SUCH AS SUBPONEA OR SEARCH BY THE AUTHORITIES OF THE HOST GOVERNMENT. IF THE INVIOABILITY OF BANK RECORDS OF FOREIGN DIPLOMATIC MISSIONS AND DIPLOMATS ARE NOT DULY RESPECTED, THEIR DIPLOMATIC ACTIVITIES WOULD BE IN EFFECT SERIOUSLY HAMPERED.

4. THE SECURITY ASSISTANCE PROGRAM OF THE UNITED STATES FOR THE REPUBLIC OF KOREA AND MILITARY COOPERATION BETWEEN THE TWO COUNTRIES INCLUDE A VARIETY OF MILITARY EQUIPMENT FOR THE DEFENSE OF THE REPUBLIC OF KOREA IN ACCORDANCE WITH THE REPUBLIC OF KOREA-UNITED STATES MUTUAL DEFENSE TREATY, AND CONFIDENTIAL

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THE PURCHASE OF THESE EQUIPMENT AND RELATED TRANSACTIONS DIRECTLY INVOLVE BANKS IN THE UNITED STATES. UNDER SUCH CIRCUMSTANCES, SHOULD THE RELEVANT BANK RECORDS BE SUBJECT TO SUBPONEA, IT WOULD CERTAINLY UNDERMINE THE COOPERATIVE RELATIONSHIP IN SECURITY AREA BETWEEN THE TWO COUNTRIES, OR SHOULD THE CONTENTS OF THESE RECORDS BE LEAKED OUT DUE TO THE EXECUTION OF A SUBPONEA, IT WOULD ENTAIL EXPOSING IMPORTANT DEFENSE SECRETS OF THE TWO ALLIED NATIONS.

5. IT IS DEEPLY REGRETTABLE THAT, IN DISREGARD OF THE VIEWS STATED ABOVE, THE UNITED STATES DEPARTMENT OF JUSTICE AND "THE ETHICS COMMITTEE" OF THE UNITED STATES HOUSE OF REPRESENTATIVES HAVE FREQUENTLY SUBPOENAED, SINCE SEPTEMBER 1976, RECORDS OF BANK ACCOUNTS OF DIPLOMATIC MISSIONS OF THE REPUBLIC OF KOREA AND THEIR OFFICIALS IN THE UNITED STATES.

6. IN THIS CONNECTION, IT IS STRONGLY REQUESTED THAT THE UNITED STATES AUTHORITIES RESPECT THE INVIOABILITY OF BANK RECORDS OF DIPLOMATIC MISSIONS OF THE REPUBLIC OF KOREA AND THEIR OFFICIALS IN THE UNITED STATES UNDER GENERAL PRINCIPLES OF INTERNATIONAL LAW AND THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, AND DESIST FROM SUBPOENAING THEIR BANK RECORDS

IN THE UNITED STATES. THE MINISTRY OF FOREIGN AFFAIRS FEELS  
THAT THE ISSUANCE OF THE SAID SUBPOENAS CAUSES ADVERSE EFFECTS  
ON THE FURTHERANCE OF FRIENDLY COOPERATION BETWEEN THE REPUBLIC  
OF KOREA AND THE UNITED STATES. END TEXT  
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## Message Attributes

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**Review Markings:**  
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